

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY MCGOWAN; A.M., a Minor, by
and through his Guardian ANTHONY
MCGOWAN; and W.G., a Minor, by and
through his Guardian WALTER GALLIGANI,
individually and on behalf of similarly situated
individuals,

Plaintiffs,

v.

ROBLOX CORPORATION, a Delaware
Corporation; and VERIFF, INC., a Delaware
corporation,

Defendants.

Case No. 21-cv-6706

Judge Jorge L. Alonso

Magistrate Sunil H. Harjani

**DEFENDANT VERIFF, INC.'S MOTION TO DISMISS PURSUANT TO F.R.C.P.
12(b)(2) and 12(b)(6)**

Defendant Veriff, Inc. ("Veriff"), by its counsel, respectfully moves this Court to dismiss Plaintiffs' Complaint pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure, and in support, states as follows:

1. This is a class action under the Illinois Biometric Information Privacy Act, 740 ILCS 14/5 *et seq.* ("BIPA") which alleges violations of Sections 15(b) and 15(c) against Veriff in connection with identity verification services. Plaintiffs' Complaint against Veriff should be dismissed for the following reasons.

2. This Court lacks personal jurisdiction over Veriff as Veriff did not engage in any relevant conduct in Illinois.

3. Plaintiffs have not alleged any facts showing that the conduct relevant to their BIPA claims occurred primarily and substantially in Illinois. As a result, BIPA, which does not

apply extraterritorially, is inapplicable, and to hold otherwise would interpret the statute in a way that violates the Dormant commerce clause.

4. Plaintiffs have not alleged facts showing unlawful profiting under Section 15(c).

5. Veriff is contemporaneously filing a Memorandum in support of this Motion.

WHEREFORE, Defendant Veriff respectfully requests that this Court grant this Motion and dismiss all claims against Veriff with prejudice and for such other and further relief the Court deems necessary and appropriate in the interest of justice.

Dated: January 31, 2022

PERKINS COIE LLP

By: /s/ Debra R. Bernard

Debra R. Bernard
DBernard@perkinscoie.com

Attorney for Defendant
Veriff, Inc.

Debra R. Bernard (ARDC No. 6191217)
PERKINS COIE LLP
110 N. Wacker Dr., Suite 3400
Chicago, IL 60606
Telephone: (312) 324-8400
Facsimile: (312) 324-9400
DBernard@perkinscoie.com

Susan D. Fahringer (ARDC No. 6331227)
Nicola C. Menaldo (WSBA No. 44459)
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
SFahringer@perkinscoie.com
NMenaldo@perkinscoie.com

CERTIFICATE OF SERVICE

I hereby certify that, on January 31, 2022, I caused a true and correct copy of the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all Counsel of record. Parties may access this filing through the Court's system.

Eugene Y. Turin
Timothy P. Kingsbury
Colin P. Buscarini
MCGUIRE LAW, P.C. (Firm ID: 327349)
55 W. Wacker Drive, 9th Fl.
Chicago, IL 60601
Tel: (312) 893-7002
eturin@mcgpc.com
tkingsbury@mcgpc.com
cbuscarini@mcgpc.com

Attorneys for Plaintiffs

Anthony J Weibell
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, CA 94304
Tel: (650) 493-9300
aweibell@wsgr.com

Attorney for Roblox Corporation

/s/ Debra R. Bernard